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HUMAN RIGHTS COMMITTEE

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SUMMARY RECORD OF THE 1794th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 25 October 1999, at 3 p.m.

Chairperson: Ms. MEDINA QUIROGA

later: Ms. EVATT

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Fourth periodic report of Portugal (Macau)

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GE.99-44966 (EXT)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 6) (continued)

Fourth periodic report of Portugal (Macau) (CCPR/C/POR/99/4; CCPR/C/67/L/POR(MAC)/1)

1. Mr. Costa Oliveira, Mr. Jacinto, Mr. Faro Ramos, Mr. Weng Chon, Ms. Albuquerque Ferreira, Ms. Tou Wai Fong, Mr. Marrecas Ferreira, Mr. dos Santos and Mr. Cabral Taipa (Portugal) took places at the Committee table.

2. The CHAIRPERSON welcomed the Portuguese delegation and invited it to introduce the fourth periodic report of Portugal (Macau).

3. Mr. COSTA OLIVEIRA (Portugal) said that the report on Macau, which was separate from the report to be submitted by the State party concerning Portugal itself, was the last before the transition period ended, on 19 December 1999, and it reviewed all issues relating to the observance of human rights in Macau.

4. Portugal had put in place a legal system in Macau that guaranteed most of the public liberties enshrined in the Portuguese Constitution, which was one of the constitutions most protective of such liberties in the world. Underlying that system was the Macau Organic Statute, which served as a constitution adopted specially for the Territory, and there was also a mechanism for systematic interpretation of the Organic Statute. The very protective human rights provisions of that Statute were to serve as guidelines for the implementation of the laws and other instruments relating to public liberties. At the end of the transition period, the Constitution of Portugal would cease to apply to Macau. Some provisions of the Organic Statute of the Macau Special Administrative Region were markedly influenced by those of the Constitution of Portugal; for example, article 25, which prohibited discrimination, clearly derived from article 13 of the Portuguese Constitution.

5. Continuity after the hand over could not be guaranteed, however, for obvious political reasons: sovereignty over the Territory would rest with the People's Republic of China as from 19 December 1999. The Organic Statute was certainly somewhat less protective than the regime currently in force, but Portugal had sought to ensure that any reduction in the protection afforded would be minimal. It had therefore endeavoured to fill gaps in the law by replacing the constitutional protection of human rights with protection based on international law. In that connection, Portugal had begun talks with the People's Republic of China in 1991 with a view to the application of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights to Macau. In that regard, it should be pointed out that unlike in Hong Kong, where the principle of the continuity of the legal system had not raised any particular problem, it had been necessary in Macau to rebuild the legal system, often starting from its very foundations, in order to ensure continuity. Thus, the application of 85 international treaties had been extended to Macau, although Portugal would have liked to make a further 115 applicable to the territory. As a result of the cooperation between Portugal and the People's Republic of China, it could be said that public liberties would be no less well protected in Macau than they were in Hong Kong.

6. In the monist legal system established in Macau, treaty-based public international law took precedence over domestic law. The domestic legal system had itself needed to be rebuilt. The legal rules in force in Macau were very influenced by Portuguese law, of which the principal source was statute law. It had thus been necessary to adapt the five main Portuguese codes (Civil Code, Civil Procedure Code, Commercial Code, Criminal Code and Criminal Procedure Code) to the actual situation in Macau. In some areas, that task was being pursued and would not be completed by 19 December 1999.

7. Portugal had sought to institute a tradition of regular reporting on implementation of the Covenants to the respective treaty bodies. The work of gathering information had been undertaken in consultation with local non-governmental organizations. Unfortunately, NGOs were not as active in Macau as in Hong Kong; their input was rather small but it should increase with the growing importance of civil society.

8. He would now turn to the questions included in the list of issues (CCPR/C/67/L/POR(MAC)/1, which read as follows:

Obligation to report and the Sino-Portuguese Joint Declaration

1. What arrangements are in place concerning the submission of reports under article 40 of the Covenant by the People's Republic of China for the Macau Special Administrative Region after 19 December 1999?

2. What guarantees exist to ensure the continued application of the Covenant in the Macau Special Administrative Region, apart from article 40 of the Basic Law, which stipulates that the provisions of the Covenant shall continue in force?

3. What arrangements exist for the application of the Optional Protocol in the Macau Special Administrative Region?

Constitutional and legal framework within which the Covenant is implemented (art. 2)

4. What impact does Decree-Law No. 55/95/M of 31 October 1995 (para. 4(g) of report), relating to the general regime for entry, length of stay and establishment of residence, have on the reservation which the State party maintains with regard to article 12 (4) of the Covenant?

5. What influence does the amendment to the electoral registration regime and the electoral system (Act No. 1/96/M of 4 March 1996) have on the reservation concerning article 25(b) of the Covenant (para. 4(j) of the report)?

6. Please elaborate on legislation concerning the judicial system (paras. 4(d), (o), (p) and (r) of the report).

7. Please provide information on efforts to introduce the Chinese language in the courts, especially in court documents and decisions. Have special laws been enacted?

Equality of rights for men and women, and non-discrimination (arts. 3 and 8)

8. What progress has been made in combating the traffic in and the sexual exploitation of women (paras. 6-16 of the report)?

9. Please provide information on education and training on the Covenant given to government officials, schoolteachers, judges, lawyers and police officers.

10. Please provide information on violence against women, including rape and domestic violence. Are there any programmes for counselling and rehabilitation of victims?

11. What programmes exist to provide assistance to women in difficult circumstances, and especially women from other countries who are brought to Macau for purposes of prostitution, forced labour or slavery?

Right to life and prevention of torture (arts. 6 and 7)

12. Do guarantees exist to prevent the transfer to another jurisdiction in China of Macau residents accused of crimes for which the death penalty or a penalty more severe than in Macau may be imposed?

13. What guarantees against torture and cruel treatment exist or are envisaged, which are not currently contained in the Basic Law and criminal codes of Macau. Please comment on the efforts of the Joint Liaison Group in this respect.

Right to liberty and security of the person (art. 9)

14. During the discussion on the third report, the State party informed the Committee of an agreement concluded with the People's Republic of China concerning the extradition of criminals to third countries. Please elaborate.

Right to freedom of movement (art. 12)

15. What protection concerning nationality exists or is envisaged for residents of Macau, bearing in mind that the People's Republic of China does not recognize the principle of dual nationality? Please explain the legislation on entry into and departure from the Territory of Macau by persons holding Portuguese passports.

Independence of the judiciary (art. 14)

16. How is the independence of the judiciary guaranteed, in particular with regard to the appointment of judges and the Government Attorney? Has the Joint Liaison Group concluded an agreement on this matter?

Freedom of expression (art. 19)

17. Please provide information on the composition and competence of the Press Council in Macau. Please comment on its Statute (CCPR/C/SR.1577, para. 45).

18. Article 23 of the Basic Law obliges the Special Administrative Region to enforce laws which characterize any act of subversion, secession or theft of State secrets as a criminal offence. Please explain how the details of those laws can be reconciled with article 19 of the Covenant.

Freedom of association (art. 22)

19. Please explain the planned programmes for improving working conditions, with particular reference to paragraph 31 of the report, and explain how far progress has been made in this respect. To what extent does the existing or proposed legislation comply with article 22(1) of the Covenant?

Prohibition of discrimination (art. 26)

20. To what extent do the social security programmes apply to non-resident workers in Macau?

Dissemination of information about the Covenant (art. 2)

21. Please indicate what steps are being taken to disseminate information on the submission of Portugal's fourth periodic report on Macau to the Human Rights Committee, on its consideration by the Committee, and the Committee's concluding observations on Portugal's third periodic report on Macau.

9. With regard to the first two questions, concerning article 40 of the Covenant and the continued application of the Covenant in Macau after the Territory's reversion to China, the Sino-Portuguese Joint Declaration did not mention the Covenant. No provision had been made for the continued application of the Covenant in the Territory, as had been the case in Hong Kong, where that was specified in article 23 of the Joint Declaration. The Macau Basic Law likewise contained no provision to that end. For the purpose of guaranteeing continuity, Portugal had therefore begun talks on the matter with the People's Republic of China, which had agreed to include the issue in the agenda. The negotiations had been based on the principle of symmetry between the system put in place in Hong Kong and the one that was to be established in Macau. They had led to a proposal, approved by the Portuguese Parliament, on extending the provisions of the Covenant to Macau subject to four restrictions - and not 14 as in the case of Hong Kong - relating to articles 4, 12, 13 and 25 (d). No other reservation applied, including with respect of article 14. There was therefore no reason to fear that obligations under the Covenant would not be observed. As to arrangements for the application of the Optional Protocol in the Macau Special Administrative Region, the negotiations had focussed only on the two Covenants and the question of the Optional Protocol had not, therefore, been addressed.

10. Regarding the impact of Decree-Law No. 55/95/M on the State party's reservation to article 12, paragraph 4, of the Covenant, the Decree-Law, had modified the regime for entry, length of stay and establishment of residence in Macau with a view to enhancing the right of residence for foreign investors and skilled persons in Macau, but it had in no way changed the applicable general rules. Thus, the principle enshrined in article 12, paragraph 4, of the Covenant ("no one shall be arbitrarily deprived of the right to enter his own country") continued to apply: any person currently residing in Macau could return to it. However, during the negotiations with the People's Republic of China on the future status of Macau, some local experts had felt that the word "country" might cause a problem. In order to remove any ambiguity, therefore, a reservation had been made to the effect that nationals of the country that would exercise sovereignty over the Territory would not be able to invoke that Covenant provision in order to enter Macau freely. The other provisions governing entry, length of stay and establishment of residence in Macau remained unchanged.

11. Concerning the influence of the amendment to the electoral registration regime and the electoral system on the reservation to article 25 (b) of the Covenant, he indicated that some simple amendments had been made to the electoral regime, but the structure of the system remained unchanged. The restriction concerning article 25 (b) of the Covenant, under which every citizen had the right to vote and to be elected, was designed solely to make it clear that in extending the Covenant to Macau, Portugal had not had any intention of changing the system for electing or appointing members of the Macau Legislative Assembly.

12. With regard to legislation concerning the judicial system and the independence of the judiciary it should be noted that until 1991 there had been only first-level courts in Macau, which had been treated as a subdivision of the Portuguese judicial system. Some cases, in particular those dealing with criminal or constitutional matters, had been decided in last resort in Portugal. However, since the Sino-Portuguese Joint Declaration had provided for the creation of a court of final appeal in Macau, a reform in 1991 had provisionally set up the High Court of Justice as an appeal court with complete autonomy. It had then been decided that from 1 June 1999 Macau's courts would have complete jurisdiction over local cases. That reform should, therefore, give Macau complete jurisdictional autonomy, since criminal, constitutional and

administrative cases would no longer be decided in Portugal. Although the negotiations on that point had not as yet been concluded, the fundamental principles of the freedom of the judiciary had nevertheless been enshrined in an agreement signed between Portugal and the People's Republic of China in March 1998. That agreement, which traced the broad features of Macau's judicial system, guaranteed that the provisions of article 14 of the Covenant would continue to apply. Thus, fundamental principles such as the independence of the courts and magistrates, the non-removability of judges and their immunity in the exercise of judicial functions, the prohibition of a finding of non liquet, and the independence and autonomy of the Puthe Prosecutors Office would continue to apply. However, the insufficient number of local jurists posed a problem in Macau. Portugal had created a law faculty in Macau at the very start of the transition period, making it possible to train 70 local professionals in recent years. Thus, out of 54 judges and prosecutors currently serving in Macau, 33 were local. Nevertheless, that number was still too low.

13. Concerning the use of Chinese in the courts and especially in court documents and decisions (question 7), numerous arrangements had been made over the years to guarantee firstly that all the forms used were bilingual, then to make interpretation or translation obligatory for certain oral proceedings or decisions, and ultimately to extend that requirement to all decisions and to all final hearings. Obviously, how far Chinese was used in the courts was closely connected with the level of localization of judges and lawyers, but in a few months the subject of concern would no longer be the non-use of Chinese but the non-use of Portuguese in some court cases.

14. Mr. Cheong Weng CHON (Portugal) said that all documents – forms, notices and other papers - used in the Macau courts were bilingual and the necessary materials for a hearing had to be translated into Chinese. With regard to the judgement rendered, if some parties to the proceedings wished to have a Chinese version, the court had to provide a translation. Macau's courts now had to arrange for simultaneous interpretation in hearings where necessary. However, the 16 translators and interpreters currently working for the courts were not enough. More would be needed, but it was difficult and expensive to recruit qualified translators and interpreters.

15. Mr. COSTA OLIVEIRA (Portugal) added that the main concern was not to legislate for such purposes but to apply the existing rules and develop the use of both languages with a limited budget. Given the situation at the outset, however, the use of the two languages in the courts could be considered to be quite satisfactory.

16. He then replied to the questions included under the heading of equality of rights for men and women, and non-discrimination, taking questions 8 and 11 together. The authorities had acted whenever the traffic in women for purposes of exploitation or prostitution constituted a real problem in Macau and in 1997 they had passed a new law designed to combat the organized criminal activities that in recent years had become notorious in Macau. One of the provisions of the law imposed heavier penalties for organized crime, and other provisions had been included concerning the traffic in women and their exploitation for purposes of prostitution, acts which now constituted offences incurring heavy penalties. However, while aware that there was some relationship between organized crime and prostitution, the authorities had not recorded many cases of trafficking in women for prostitution in the past year. Macau was a small city covering just 24 square kilometres and it was a major tourist destination, with most of the tourists coming for its gambling houses. The presence of so many tourists encouraged prostitution and the authorities were thus confronted with public health and hygiene problems, as well as with certain activities related to organized crime, although there were no significant data showing a clear link between trafficking in women and prostitution. Prostitutes in Macau were for the most part young girls and women who came from outside, generally driven by poverty. Of the two cases which had been detected in 1999, the first concerned Vietnamese girls working in Cambodia who had been brought to Macau to work as dancers or masseuses and had been forced to prostitute themselves. They had complained to their consulate and, through the concerted action of the police of Viet Nam, Cambodia and Macau, those responsible had been arrested and a request made for their extradition. The second case concerned a Chinese woman who had been encouraged to come to Macau to

work as a domestic servant and had then been forced into prostitution. There, too, the person responsible had been arrested and was being prosecuted. The Macau authorities were determined to combat trafficking in women, but had no reason to believe that it was a major problem. That could be judged from the available figures on cases of trafficking in women for purposes of commercial exploitation: there had been 5 recorded cases in 1997, 6 in 1998 and 15 in 1999. The authorities were endeavouring to remedy the situation, in accordance with their international obligations and with the new regulations instituted by the law of 1997. With regard to programmes to assist women in difficult circumstances, the women concerned often came from abroad for economic reasons and would sometimes have their passports taken away from them and be forced to contract loans. Those practices ceased, however, as soon as the police were informed. There were not many assistance programmes because women finding themselves in difficult circumstances tended to go back to their own countries. In the few cases involving women living in Macau, aid would be provided by institutions attached to the Catholic Church: the women were taken in and given temporary support until they could begin a new life. Those institutions themselves received support from the public authorities.

17. With regard to violence against women, including rape and domestic violence (question 10), relevant information was supplied by the police and by the courts, but the data were not broken down in such a way as to answer the question exactly. Acts generally constituting rape or sexual coercion were offences against the physical integrity and sexual liberty of women, and there had been 18 cases in 1997, 14 in 1998 and 23 up to August 1999. With regard to domestic violence, his delegation had not been able to obtain specific data for the years before 1999; in the current year, 29 cases had thus far been reported. His delegation had also been unable to obtain more information on programmes for counselling and rehabilitation of victims and would supply that information to the Committee as soon as it became available.

18. With regard to education and training (question 9), there were a significant number of human rights training programmes in Macau, dealing in particular with public liberties. Those programmes were intended for future judges and members of the Public Prosecutor's Office during the year of preparation they had to undergo in a magistrates' training centre, where they received training on the application of a variety of human rights instruments, and not only the Covenant. The same applied to trainee lawyers and police officers. There were also various training activities for a wider target group, including State officials, teachers and members of other professions. The training was not provided in several languages and when the body concerned was not a public body, it received State aid. The Government of Macau had set itself the goal of improving training in human rights for members of a number of professions, and of enhancing the Macau population's knowledge of that area.

19. He then replied to the question on the guarantees that existed concerning transfer to another jurisdiction in China (question 12). The rule currently applicable in Macau on transfer to another jurisdiction dated from 1975; it was a provision that the Constitutional Court of Portugal had interpreted in some cases, a number of years ago, as concerning extradition to China, but no distinction was made regarding the origin of the extradition request and it applied whatever country requested extradition. One of the principles enshrined in that provision, which derived directly from article 33 of the Portuguese Constitution, stipulated that extradition was not possible if the person concerned was in danger of being subjected to the death penalty or life imprisonment, or a punishment involving amputation. Extradition could also be refused to a country that did not comply with international standards affording guarantees of a fair trial. However, the current provisions did not place restrictions on extradition where the person concerned might incur a penalty more severe than in Macau for the same crime.

20. Ms. ALBUQUERQUE FERREIRA (Portugal) replied to the questions concerning torture and ill-treatment (para. 13 of the list of issues). In the context of the Joint Liaison Group, it had already been agreed with the delegation of the People's Republic of China that some 200 international conventions would apply to Macau after December 1999; they included the most important conventions and, in particular, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the

International Convention on the Elimination of All Forms of Racial Discrimination, as well as the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Prevention and Punishment of the Crime of Genocide. About 30 international human rights instruments would be applicable and, even though the decision was not as yet official, her delegation could announce that China would assume responsibility for implementation of the Covenant in Macau as from October 1999. The other conventions would be applicable to the extent that China was already applying them, and up to 19 December 1999 Portugal would be applying the conventions in question, bearing in mind the reservations it had entered. It had been agreed between Poland and China that some of the reservations made by China to international conventions would not apply, and that was an important factor for the autonomy of the Special Administrative Region. In summary, all human rights would be protected not only under ordinary law but also with reference to international standards, which took precedence over domestic law both in the Portuguese system and in the Chinese system. Unlike in the case of the Hong Kong Special Administrative Region, where a statute was required to apply international conventions or treaties, such instruments were directly applicable in Macau. That would be the case, for example, for some International Labour Organization conventions, in particular the Forced Labour Convention (No. 29). In conclusion, her delegation wished to emphasize that cooperation on the subject between China and Portugal had thus far been excellent.

21. Mr. COSTA OLIVEIRA (Portugal) provided details of an agreement concluded with the People's Republic of China concerning the extradition of criminals to third countries (question 14). The method of work followed in the Liaison Group concerning bilateral agreements involved holding meetings first of all between Portugal and China, on the basis of proposals submitted by the Macau Government. Once the parties had arrived at what was known as a "standard agreement", the text in question would be sent to the Macau Government which in turn transmitted it as a first proposal to the third countries with which it was proposed to conclude a bilateral agreement on mutual legal assistance in criminal matters. For that purpose, Macau had generally followed the model of the various United Nations standard agreements, except for the fact that it had divided the question of mutual legal assistance in criminal matters into three parts, making each the subject of a separate agreement: first, extradition, called "surrender of fugitive offenders" in Macau; secondly, the transfer of persons sentenced or imprisoned; and, thirdly, other matters relating to mutual legal assistance.

22. An agreement on the transfer of sentenced persons had been formulated and discussions were under way with six countries in that connection. However, no agreement had been concluded on the surrender of fugitive offenders, i.e. extradition. It should be pointed out that the agreements in question dealt only with mutual legal assistance between Macau and third countries, and not between Macau and a country exercising its sovereignty over the Territory. In the case of the agreement on sentenced persons, there had been no major divergence of views and the United Nations model had served as the basis. In the case of extradition, however, the principles guiding the two countries, Portugal and China, had not enabled an agreement to be reached, and that created many problems for the Macau authorities. When they received an extradition request and were in favour of acceding to it because the requesting country offered the requisite safeguards, they were prevented from doing so by the absence of an appropriate bilateral agreement, domestic law requiring reciprocity in the matter.

23. With regard to the right to freedom of movement, and more specifically concerning nationality (question 15), he recognized that the question of dual nationality was one of the most complex issues of the transition period. It had been raised officially following the signature of the Sino-Portuguese Joint Declaration, but it had not been possible to reach an agreement on that occasion. The question had been raised again several times, without success, but discussions were continuing. As a result of the pressure brought to bear by Portugal, some results concerning the position of the Chinese authorities had been obtained. As it had done for Hong Kong, the Standing Committee of the National People's Congress of China had adopted a resolution, in March 1999, concerning the interpretation of the nationality law of the People's Republic of China and the way in which it should be applied in the Macau. The local authorities

were guaranteed the same powers in that regard as the Hong Kong authorities, namely important powers concerning the interpretation and application of the nationality law, especially for persons with dual nationality opting for the nationality other than Chinese nationality and implicitly rejecting the latter. The resolution adopted with respect to Macau also had a second component – one that did not exist in the case of Hong Kong - concerning the right of Macau inhabitants of Portuguese descent to choose for themselves the nationality they wished to retain: there was a written declaration of China to the effect that such persons would not have Chinese nationality imposed on them if they did not wish to be treated as Chinese.

24. Entry into the Territory of Macau for persons holding Portuguese passports was not, of course, currently a problem. In the future Macau Special Administrative Region, it was certain that Portuguese passport holders would still be allowed to keep their passports and use them as travel documents, as guaranteed in the Memorandum of the People's Republic of China annexed to the Sino-Portuguese Joint Declaration.

25. With regard to freedom of expression, some questions had been asked concerning the composition and competence of the Macau Press Council referred to during the consideration of the previous report (item 17 of the list of issues). The creation of such a council was mentioned in a 1991 law on the freedom of the press, which had spoken of a regulatory body charged in particular with defining the criteria for being a journalist as well as for guaranteeing freedom of the press. The intrinsically fine idea of creating an organ completely independent of the executive had never been realized, however, because of opposition from the Newspaper and Media Owners Association and the Journalists Association. The Macau Legislative Assembly had itself addressed the issue, but without success. There was no press council in Macau.

26. Regarding the compatibility of the laws penalizing acts of subversion, secession or theft of State secrets with article 19 of the Covenant (question 18), the fact was that Macau judges needed never needed to apply the laws in question. Generally speaking, the principle followed by the Government and the Legislative Assembly was to formulate any provisions that would restrict the exercise of particular human rights in the clearest and most objective manner possible, and to limit the powers thus vested in branches of the executive. Lastly, it should be pointed out that the Basic Law had not yet entered into force and that its article 23 was not mentioned in the provisions for the application of the Sino-Portuguese Joint Declaration.

27. Mr. CABRAL TAIPA (Portugal) indicated that the legislation governing freedom of association fully conformed to article 22, paragraph 1, of the Covenant. After 19 December 1999, the right of association would be protected under the ILO Freedom of Association and Protection of the Right to Organize Convention (No. 87), 1948, and the ILO Right to Organize and Collective Bargaining Convention (No. 98), 1949, which had been in force for Macau since 1964 and September 1999, respectively.

28. Mr. COSTA OLIVEIRA (Portugal) said that non-resident workers did not enjoy as much social protection as resident workers (item 20 of the list of issues). However, the authorities were endeavouring to improve the situation and any entity employing non-resident workers was now obliged to take out insurance to cover them for accidents at work or to insist that they themselves take out such insurance. Furthermore, a bill provided for the health care protection afforded to residents to be extended to non-resident workers. It should nevertheless be recognized that non-resident workers often stayed in Macau for only short periods and it would hardly make sense to grant them all the benefits available to residents, including pensions. The authorities also had to fear in mind the strong opposition of local communities to extending social security programmes to non-resident workers.

29. With regard to the dissemination of information about the Covenant and the Committee's consideration of the reports (question 21), Portugal's third periodic report on Macau (CCPR/C/70/Add.9) and the Committee's concluding observations following the consideration of that report (CCPR/C/79/Add.77) had been widely publicized in the Territory and translated into Portuguese and Chinese. Press conferences

had been organized on the topic and, more generally, the local media had reported on the consultations between the authorities and non-governmental organizations and had disseminated information about the preparation of Portugal's periodic reports concerning Macau. The fourth periodic report (CCPR/C/POR/99/4) had not received as much publicity as might have been desired owing to lack of time, but there was no doubt that the local media would duly report on its consideration by the Committee. Lastly, it should be noted that the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights had been translated into the two official languages of Macau.

30. The CHAIRPERSON thanked the delegation and invited members of the Committee to ask their supplementary questions.

31. Mr. ANDO said that the protection of human rights was problematical because, while the Portuguese Constitution applied in theory to Macau, Portugal was actually only administering the Territory, which was part of the People's Republic of China and placed under its sovereignty. That particular status obviously entailed some gaps in the protection of human rights. Regarding the future of Macau, he wondered whether the authorities of the People's Republic of China would take account of the many changes that had occurred in the Territory since 1987. In particular, would an international instrument to which Portugal was a party, but to which the People's Republic of China was not, remain in force for Macau after 19 December 1999?

32. Concerning the electoral system, he understood that the question had not thus far been taken up with the authorities of the People's Republic of China. Was that understanding correct? He would like to know whether the current system would be retained after 19 December 1999 and, in particular, whether the inhabitants of Macau would continue to elect their own representatives.

33. With regard to freedom of assembly and demonstration, he would appreciate more information about the impact of Law 7/96/M (para. 4 (u) of the report) and Decree-Law 357/93 (para. 4 (y)). In particular, he would like to know what would become of the Chinese officials employed by the Administration of the Territory of Macau after 19 December 1999. He also requested information about the codification and development of the principles relating to workers' rights, as mentioned at the end of paragraph 31 of the report.

34. Concerning the application of article 18 of the Covenant, he cited paragraph 27 of the report and asked what would happen in Macau after 19 December to the members of a certain organization regarded as a religion and persecuted by the authorities of the People's Republic of China on the mainland.

35. Ms. Evatt took the Chair.

36. Mr. YALDEN said that he was concerned about the question of respect for the principle of non-discrimination in Macau. He recalled that, in its concluding observations after the consideration of Portugal's third periodic report on Macau (CCPR/C/70/Add.9; CCPR/C/79/Add.77), the Committee had expressed concern at the de facto inequalities with regard to the situation of women and their remuneration, and would like to know whether any progress had been made in that area and what steps the authorities had taken for that purpose.

37. Regarding the use of the Chinese language, a matter that had been raised in paragraphs 11 and 17 of the Committee's concluding observations (CCPR/C/79/Add.77), the delegation had indicated that Chinese had been employed in the courts in the context of the localization of the judicial system. What was the situation in the public sector as a whole, including the civil service?

38. He would like more information about the application of article 25 of the Covenant, and particularly on the implementation of the procedure established under Law 5/94/M to govern and protect the right of

petition. It would be useful to know whether the procedure in question provided for compensation, and how many petitions, representations, protests and complaints had been submitted to the authorities and with what outcome. Lastly, he requested information about the actual working of the various commissions established with a view to the exercise of the right of petition.

39. Lord COLVILLE noted that the situation in Macau had changed greatly since the submission of Portugal's third periodic report on the Territory (CCPR/C/70/Add.9). He nevertheless wondered about the nature and effects of the legislative provisions described in the paragraphs of the fourth periodic report relating to the application of article 8 of the Covenant. It was his understanding that, as part of efforts to combat organized crime, the authorities had defined the acts of promoting, founding or supporting a secret association or society as offences. The definition of a secret association or society was reproduced in paragraph 6 of the report. Thus, what was punishable by law was apparently not the commission of one or more of the offences enumerated in that paragraph, but the fact of belonging to, promoting or supporting a secret association or society. He saw no contradiction there with the provisions of the Covenant, but he was concerned at the prospect that, as indicated in paragraph 14 of the report, the term of the sentence for participation in a secret association or society could be extended if the person concerned had previously been imprisoned for the same offence. As no such offence had existed in Macau's criminal law before 1997, he failed to see how a person could have already been imprisoned on the same ground, and if the provisions in question had actually been enforced in the past, that might raise questions concerning the application of the Covenant. It was also disturbing that the sentence could be extended if there was reason to expect that, once released, the convicted person would not lead a socially responsible life and would continue to break the law. The extension of the sentence would then be based on a mere suspicion, and not on the commission of an offence. There, too, the law appeared to raise questions with respect to the provisions of the Covenant, particularly article 14, and he would like some clarification on those points. In addition, he wondered whether, after 19 December 1999, a person in Macau who had previously committed one of the offences listed in paragraph 6 of the report and who had been convicted for participation in a secret association or society could be prosecuted again by the authorities of the People's Republic of China in connection with the offence in question, for which they might consider that the person concerned had not been prosecuted and sentenced before. Furthermore, he understood that extradition to the People's Republic of China would be refused in the case of an offence subject to the death penalty, but what would happen if the offence were subject to another penalty, and especially a more severe penalty, than the one provided for in the Territory of Macau? Lastly, he would be grateful if the delegation could indicate in what way the legislation in that regard was compatible with the provisions of the Covenant.

40. Mr. KLEIN said that the main question was whether the situation of the Macau population with regard to human rights would or would not deteriorate after 19 December 1999 and he asked whether the delegation could give an assurance that all the statutes in force, including those enumerated in paragraph 4 of the report, were in full conformity with human rights standards, in particular those set forth in the Covenant. Had any of the provisions of the legislation applicable to Macau been deemed contrary to the new Basic Law and, if so, were they likely to be repealed? He wondered, in particular, about the provisions relating to the length of detention pending trial, which the Committee against Torture had found excessive. Furthermore, from what was said in paragraphs 20 and 24 of the report, it appeared that the restrictions imposed by the law on freedom of religion and worship were much more extensive than those provided for in the Covenant and he wondered whether the provisions of article 18, paragraph 3, of the Covenant were really being respected. Lastly, with reference to item 15 of the list of issues, where it was recalled that the People's Republic of China did not recognize the principle of dual nationality, he would appreciate information about what criteria would be applied in granting Portuguese or Chinese nationality for Macau inhabitants who might have both Chinese and Portuguese origins.

41. Mr. SCHEININ, reverting to the question of the traffic in and sexual exploitation of women (question 8), requested more information about measures taken to assist women victims of trafficking and

prostitution. Paragraph 6 of the report indicated that a new law had been passed to combat organized crime, which certainly included prostitution networks, but he wondered what precisely was meant by the phrase "organization established to obtain illegal advantages or benefits". In addition, since the law provided that offering and assisting illegal immigration was an offence (para. 6 (g)), he wondered whether it could also be applied to hinder the activities of humanitarian aid organizations. In the complex situation that might arise in Macau after 19 December 1999, it was important that the legislation should be as clear as possible and not allow for divergent interpretations. Lastly, in its reply to question 18, the delegation had merely indicated that the authorities had not needed to apply the laws criminalizing any act of subversion, secession or theft of State secrets. He would like more details about the content of those laws and to know whether their provisions were really consistent with article 19 of the Covenant.

42. Ms. CHANET said she wondered why, in a territory with a small civil society (lawyers, journalists, etc.) and serious problems related to crime, especially prostitution, there were so few non-governmental organizations able to defend people's interests. Could the delegation account for that phenomenon?

43. She had also been struck by the abundance of laws promulgated over the past three years and by the fact that their value was very relative, given that the Basic Law allowed for them to be altered by any competent local administration after the Territory reverted to China. She consequently wondered about the future of those laws. On the other hand, nothing was said in the report about any law governing the proclamation of a state of emergency and the issue of the death penalty had not even been mentioned, although that problem would inevitably have to be discussed between China and Macau. Perhaps like the delegation could provide some clarification on that point. Concerning the application of the Covenant itself, problems in the interpretation in the interpretation of Covenant provisions would also have to be faced by the authority in place after 19 December 1999. Yet no provision seemed to have been made to deal with any conflict between the Covenant and the legislation in force, and the question of the application of the Optional Protocol had likewise not been addressed; those were both matters of concern.

44. Lastly, she associated herself fully with the concerns expressed by Lord Colville regarding the application of the law making it an offence to participate in a secret association or society and wished to add that the notion of secrecy was in itself very difficult to define. Could the delegation provide some explanation of what the State party meant by "secret association"?

45. Mr. AMOR, referring to paragraph 4 (n) of the report, asked to what extent the State could issue a passport to a foreigner and whether the document was not more in the nature of a laissez-passer. With regard to paragraph 4 (cc), he would like to have some information about the exercise of trade union rights by workers and about the safeguards for such rights in general. In addition, with regard to the criminal liability of corporations, as mentioned in paragraph 8 of the report, he asked what penalties could be imposed when such liability was established.

46. With regard to freedom of religion, he would like to know whether the Portuguese law of 1974 that had been extended to Macau guaranteed both freedom of religion and freedom of belief. Also, did religious communities or groups have to be registered with the administrative authorities or were they free to carry out their activities without any regulation? He would further like to know whether there was any proselytising in Macau and whether there were any new religious movements that might have difficulty in being accepted by the Chinese authorities. Lastly, he requested clarification as to the meaning of paragraph 33 of the report: was it to be understood that foreigners in Macau could exercise the political rights set forth in article 25 of the Covenant?

47. Mr. LALLAH asked first of all whether decisions taken by the highest court in Macau dealing concerned with human rights could be appealed, for example, to the Standing Committee of the National People's Congress of China, which was actually a political body. That question was an important one

because China was not a party to the Covenant and therefore not required to observe the rights set forth therein.

48. With regard specifically to the transition period, he inquired whether the members of the Chinese police force who would be called upon to supervise the hand over had been informed about the Code of Conduct for Law Enforcement Officials, in order to ensure that there would be no excesses or brutality of the kind that had been reported in Hong Kong during that Territory's reversion to China in July 1997.

49. Mr. COSTA OLIVEIRA (Portugal), answering Mr. Ando's question, said the fact that Macau was regarded as Portuguese-administered Chinese territory did not mean that the exercise of power there was at all reduced or divided. Any decision concerning Macau was reviewed by the Joint Liaison Group, which gave its opinion after detailed consultations. The changes made in the last three years to the legislation applicable in Macau would be retained, in accordance with the principle of continuity. It would obviously be necessary, however, to align some statutes with Chinese legislation, a process that had already begun with the full cooperation of the Chinese authorities.

50. The CHAIRPERSON said that the Portuguese delegation would continue to reply to the Committee members' questions at the next meeting.

The meeting rose at 6 p.m.